

## **Disproportionate Share Hospital Adjustment - Dual Eligible Patient Days**

The Medicare disproportionate share hospital (DSH) adjustment is based in part on the DSH patient percentage. The DSH patient percentage is the sum of two fractions: the Medicare fraction and the Medicaid fraction. The Medicare fraction is the number of patient days attributable to patients entitled to both Medicare Part A and SSI benefits divided by the total number of days for all patients entitled to Medicare. The Medicaid fraction is the number of patient days attributable to patients who, for those days, were eligible for Medicaid but were not entitled to benefits under Medicare Part A. As we stated in the May 19, 2003 proposed rule (68 FR 27207), if a patient is a Medicare beneficiary who is also eligible for Medicaid, the patient is considered a dual-eligible and the patient days are generally included in the Medicare fraction of the DSH patient percentage, but not the Medicaid fraction. This is consistent with the language of section 1886(d)(5)(F)(vi)(II) of the Act, which specifically excludes patients that are entitled to benefits under Part A from the Medicaid fraction.

In the May 19, 2003 proposed rule (68 FR 27207) we indicated, with respect to dual-eligibles, that the policy described above currently applies even after the patient's Medicare Part A coverage is exhausted. That is, we stated that if a dual-eligible patient is admitted without any Medicare Part A coverage remaining, or the patient exhausts Medicare Part A coverage while an inpatient, the non-covered patient days are counted in the Medicare fraction. It has come to our attention, however, that this statement is not accurate. Our policy has been that only covered patient days are included in the Medicare fraction (42 CFR § 412.106 (b)(2)(i)).